

LAWS APPLICABLE TO CHRISTMAS TREES

5523

(No. 6 January 1999)

The following sections provide an overview of the laws and regulations regarding Christmas trees. The full text of the law or regulation, or the agency involved, should be referred to when necessary.

CUTTING, REMOVAL, AND TRANSPORTATION OF TREES, SHRUBS, OR BOUGHS

5523.1

(No. 6 January 1999)

Several sections of the Penal Code regulate the cutting and transportation of Christmas trees, shrubs, or boughs in California. The principal authority rests in PC Section 384 through 384i. Several species of desert plants, such as the Joshua tree, yucca, agave, smoke tree, ironwood, and ocotillo, are included among the trees and shrubs that require a landowner's written permit and transportation tags for the removal and transportation of more than five plants. A timber operator license number is required to obtain transportation tags only for those operations subject to the Z'berg-Nejedly Forest Practice Act of 1973.

The Forest Practice Act and related Board of Forestry regulations do not require a person to have a license when cutting Christmas trees under the following conditions:

- When cutting is for other than commercial purposes.
- When the tree species cut is not designated as a commercial species by the forest practice rules of the forest district in which the cutting is done.
- When the cutting is on an ownership of less than three acres.
- When the cutting is done only on federal government-owned land.

The law does not affect out-of-state imports of Christmas trees, shrubs, or boughs. PC Sections 384a and 384c require persons who cut or remove any tree, shrub, bough, or specified desert plant from public lands or private land not their own to obtain a written and notarized permit from the owner. See the law for details and exceptions. CDF is empowered to enforce these sections. The department (see 5523.2) does not furnish forms for such permits by landowners. Presumably, any written statement that meets the requirements of the law may be used.

PC Section 384b provides definitions applicable to Sections 384c, 384d, 384e, and 384f. It is important that any enforcement of the law be done with proper application of these definitions.

TRANSPORTATION TAGS AND TAG APPLICATIONS

5523.2

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Persons purchasing cut evergreen trees, shrubs, (toyon or Christmas redberry) boughs of evergreen trees or specified desert plants from harvesters must not transport more than five trees or specified desert plants, or more than five pounds of shrubs or boughs on public roads or highways without obtaining from the seller of such trees, plants, shrubs, or boughs, and having validated as provided in Section 384d, a transportation tag for each load of such trees, plants, shrubs, or boughs.

Persons who harvest trees, specified desert plants, shrubs, or boughs from their own land or the land of another must, before transporting on public roads or highways, or selling or consigning for removal and transportation over public roads and highways, more than five trees or specified desert plants, or more than five pounds of shrubs or boughs, file with the sheriff of each county in which such trees, desert plants, shrubs, or boughs are to be harvested, an application for transportation tags. Those persons must obtain enough transportation tags to provide one tag for each load of trees, plants, shrubs, or boughs to be so transported or sold.

The State Department of Justice furnishes transportation tag application forms to the various sheriffs. These application forms are not made available to CDF offices, nor will CDF offices attempt to furnish such forms to persons requesting them. Persons making such requests should be referred to the sheriff in the county where the cutting or removal of trees, plants, shrubs or boughs, is to be done.

Each load of more than five Christmas trees, five specified desert plants, or five pounds of shrubs or boughs, must be accompanied by a transportation tag at all times while en route to the marketing area.

VALIDATION OF TAGS

5523.3

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PC Section 384d requires the transporter to have the transportation tag validated by a peace officer in the county where the trees, desert plants, shrubs, or boughs were cut or removed. If the transportation route does not pass an office of a peace officer; in that county, then the tags must be validated by the nearest peace officer in the adjacent county.

Under the provisions of PC Section 384b, CDF peace officers have the power to validate transportation tags as required by PC Section 384c and 384d.

Before a transportation tag can be properly validated, the transporter must have in his/her possession a bill of sale from a harvester (wholesaler) or owner-harvester, or must own the stumpage from which he/she is transporting his/her own product. In such a case, he/she may be required to have a timber operator's license. Further evidence of lawful cutting in some cases can be verified by examination of the notarized permit to cut trees signed by the landowner.

The officer validating the tag will remove the postcard-type card portion of the form and forward it by mail or personal delivery to the sheriff's office where the tag originated.

The tag has a place for entering the timber operator's license number, or noting that the operation is not subject to the Forest Practice Act. Before questioning the validity of the tag, a CDF peace officer must determine if the operation requires a timber operator license because it is subject to the Forest Practice Act.

ENFORCEMENT PROCEDURES

5523.4

(No. 6 January 1999)

A CDF peace officer does not have authority to stop a moving vehicle carrying products as defined in PC Section 384e in order to determine the legal right of the operator to transport the products, unless the officer believes that the transportation of such products constitutes a misdemeanor committed in his/her presence.

Although PC Section 384a authorizes confiscation and Section 384e authorizes retention in protective custody of illegally obtained or transported loads of trees, desert plants, shrubs or boughs, CDF peace officers will proceed with extreme caution with regard to those actions. When such confiscation or retention is seriously considered, the officer will contact the regional fire prevention program manager for guidance and instructions. Rather than holding or confiscating a cargo, it is recommended that a citation is issued to the driver after the positive identification of the person and vehicle is recorded on the citation.

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